IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

MACA.No. 776 OF 2006()

OPMV.407/1999 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA

APPELLANT/APPLICANT

P.P.KOMU, C/O. RAHIM A.K.,
AMMAMKULAM HOUSE, MANICHIRA,
MAVADIKUNNU, POOMALA P.O.,
S.BATHERY, WAYANAD DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.GEORGE MATHEWS

RESPONDENTS: RESPONDENT NO.3

NEW INDIA ASSURANCE CO. LTD.,
MOOSA SETTU BUILDINGS,
2ND FLOOR, OOTTY.

BY ADV. SRI.KKM.SHERIF
SRI.P.A.MOHAMMED ASHROF
SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN & ANTONY DOMINIC, JJ.

M.A.C.A. NO. 776 OF 2006

DATED THIS, THE 12TH DAY OF MARCH, 2007.

J U D G M E N T

Raman, J.

The appellant is the claimant in O.P.(MV) 407/1999 on the files of the Motor Accidents Claims Tribunal, Kalpetta, who sustained injuries as a result of a motor accident. What is disputed in this appeal is the quantum of compensation awarded by the Tribunal. An amount of Rs. 2,50,000/- was claimed by the appellant under various heads against which the Tribunal granted an amount of Rs. 43,000/-. Aggrieved thereby, the claimant has preferred this appeal.

2. The appellant was a supervisor in an Estate and according to him, he was drawing an amount of Rs. 4,500/- per month, by way of salary. However, he did not produce any cogent evidence to prove his income and in such circumstances, the Tribunal took an amount of Rs. 1,500/- as his notional income. The appellant sustained fracture to his right tibia and fibula, lacerated injury of right heel and abnormal mobility of crepitus on

right leg and has also undergone an operation. He was in the hospital for 15 days. The Tribunal has only awarded Rs. 5,000/- towards pain and suffering which, we consider, is too low. We find that an amount of Rs. 5,000/- more is to be awarded under this head. Likewise, towards medical expenses, though the claim was for Rs.19,000/- the Tribunal limited it to Rs. 15,000/- applying the schedule and without noting the fact that it is a claim under Section 166 of the Act. The Tribunal ought not have limited the claim toward medical expenditure covered by the medical bills to Rs. 15,000/-. Accordingly, we award Rs. 4,000/- more as additional compensation under this head. As per the disability certificate produced Ext.A4, the appellant has suffered 25% disability. He was at the age of 60 and applying the multiplier of 5 and taking the notional income of Rs. 1,500/- if calculation is made, he will be entitled for an amount of Rs. 28,000/- . As against the same only an amount of Rs. 15,000/- is awarded by the Tribunal. Accordingly, we award an additional compensation of Rs. 13,000/- under this head. No compensation is seen awarded for loss of amenities and we award Rs. 5,000/- under this head. Thus, the appellant is entitled to an additional compensation of Rs. 27,000/- (Twenty seven thousand) over and above the compensation already awarded by the

Tribunal. This amount will carry interest at the rate of 7% per annum from the date of petition till realization. The award is modified accordingly.

The appeal is disposed of as above.

P.R. RAMAN,
(JUDGE)

ANTONY DOMINIC,
(JUDGE)

knc/-